

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: August 26, 1996

TO: James J. McDermott, Regional Director, Region 31

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: Rockwell International Corp., Case 31-CA-17426

536-2562

This case was resubmitted for advice on whether the Board's recent decision in *Schweizer Aircraft* ⁽¹⁾ requires dismissal of the violation in the prior Advice Memoranda in this case, which alleged that the Employer unlawfully continued to deduct Beck service fees, after the signatory employee had resigned his membership and attempted an untimely revocation of his checkoff authorization, because the employee's resignation effectively revoked the checkoff authorization as a matter of law despite the presence of a lawful union-security clause.

The prior Memorandum dated May 8, 1992, noted that the Board decision in *Lockheed* ⁽²⁾ held that in a right-to-work state where no union-security clause was in effect, an employee's resignation effectively did revoke the checkoff authorization. We noted that the Board stated that "a different situation exists when an employee is subject to a lawful union-security clause..." We nevertheless decided to argue that the employee's resignation here also effectively revoked his checkoff authorization despite the union-security clause, and that the Employer's continued deduction of Beck fees was unlawful.

We conclude, in agreement with the Region, that *Schweizer Aircraft* controls this case and requires that this allegation be dismissed.

The Board in *Schweizer* explicitly held that "resignation of membership by an employee who is obligated to pay dues under a lawful union-security clause does not privilege the employee to make an untimely revocation of his checkoff authorization..." Id., slip op. at 4. The employee in *Schweizer* resigned his membership and made a Beck objection, and the employer there adjusted the checkoff deduction to the reduced rate required by Beck. Id., slip op. at 3, note 6. The instant case involves the identical factual situation attacked under different Sections of the Act. *Schweizer* involved Section 8(b)(1)(A) and (2) allegations against the Union's efforts to enforce the unrevoked checkoff; the instant case involves a Section 8(a)(3) allegation against the Employer's attempt to enforce the unrevoked checkoff. Otherwise, the rationale of *Schweizer* applies, and the instant allegation should be dismissed for lack of merit.

B.J.K.

¹ UAW Local 1752 (*Schweizer Aircraft Corp.*), 320 NLRB No. 39 (1995).

² IBEW Local 2088 (*Lockheed Space Operations Co., Inc.*), 302 NLRB 322 (1991).